IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1412 OF 2003

The State of Maharashtra ...Appellant

V/s

1. Narayan Narsiyya Dandi
and Ors. ...Respondents.

Mr. D.S. Mhaispurkar, APP for the appellant - State.

CORAM: V.M.KANADE,J.

DATE: 15TH SEPTEMBER, 2004

PC:.

1. Heard the learned APP for the appellant - State.

2. Appellant - State has filed an appeal against the order passed by the Judicial Magistrate, First Class in Regular Criminal Case No.82 of 1996.

3. The respondent - accused was charged under section 379 read with section 34 of the Indian Penal Code for having taken possession of the truck which was owned by the complainant.

4. Prosecution's case is that on 31/3/1996, the complainant had parked his truck near his house and at about 7.00 p.m. 4 to 5 persons came in a Trax vehicle and demanded amount of fan purchased by Smt. Parubai

and her sons for a gift scheme. On the complainant denying to pay the said amount, they took away the truck. The Trial Court, after perusing the evidence on record, has observed that the registration of the truck was not in the name of Popatlal Gandhi and that there was a dispute between the rival parties claiming return of the property. The Trial Court, therefore, observed that the prosecution had not discharged the burden of proving that the accused had illegally taken possession of the truck owned by the complainant. So far as this finding is concerned, it has not been assailed either in the Memo of Appeal or in the grounds of appeal. I do not see, therefore, any reason to interfere with the said order of the Trial Court. Leave is, therefore, refused. Appeal is rejected.

V.M. KANADE, J.